

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments implement the changes in employment service definitions as provided by the Centers for Medicaid and Medicare Services (CMS) in its September 16, 2011, Informational Bulletin and in the CMS 2015 Technical Guide.

These amendments also change the provider qualifications, scope of services, duration, limitation and reimbursement methodologies for the home- and community-based services (HCBS) prevocational and supported employment services within the habilitation services program and the intellectual disability (ID) and brain injury (BI) waivers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2114C** on August 19, 2015. The Department received 190 comments from 23 respondents resulting in recognition of needed amendments within the original Notice of Intended Action. An Amended Notice of Intended Action was published as **ARC 2380C** on February 3, 2016. The Department received comments from one respondent during the comment period. Comments and the Department’s responses are shown below:

**COMMENT 1:** The respondent commented in support of the rules generally, and highlighted several aspects of the amended rules they consider “positives”, including the alignment of DHS and IVRS and that the rates in these rules are built from a staff-cost model.

**DEPARTMENT RESPONSE 1:** Thank you for your advocacy for employment for all Iowans.

**COMMENT 2:** The respondent noted a technical error in subparagraph **83.82(1)“p”(4)**, suggesting that the term “small group supported employment” should be “prevocational” in this item.

**DEPARTMENT RESPONSE 2:** The Department agreed with the respondent and changed “small group supported employment services” to “prevocational services” in the rule amendment.

**COMMENT 3:** The respondent commented regarding specifics of the Career Exploration activity in prevocational service and asked if it could be allowed in small groups of up to four individuals, to allow agencies’ the latitude to provide all or part of this service with more highly qualified staff.

**DEPARTMENT RESPONSE 3:** The Career Exploration service is intended be delivered primarily one to one to assist the person in determining if they want to work and where their employment interests lie in order to develop a career plan that will assist with employment service planning. Members could receive some Career Exploration activities in small groups of up to four (4) members, such as business tours, benefit information and financial literacy classes, or attending career fairs. Developing the member’s actual Career Plan remains a one to one service.

The Department accepts this recommendation. Subparagraph **78.27(9)“a”(1)** will be amended as follows:

(1) Career exploration. Career exploration activities are designed to develop an individual career plan and facilitate the member’s experientially based informed choice regarding the goal of individual employment. Career Exploration may be provided in small groups of no more than four members to participate in career exploration activities that include business tours, attending industry education events, benefit information, financial literacy classes, and attending career fairs. Career exploration may be authorized for up to 34 hours, to be completed over 90 days in the member’s local community or nearby communities and may include but is not limited to the following activities:

**COMMENT 4:** The respondent asked that “Workplace Readiness Assessment” be added to the list of activities under Career Exploration.

**DEPARTMENT RESPONSE 4:** The Department does not support this recommendation. The Centers for Medicare and Medicaid Services (CMS) do not include this specific wording in their informational letter on employment services including prevocational and career planning at <https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-09-16-2011.pdf>

In addition, Medicaid is prohibited from funding a service that is available under section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 et seq.). “Workplace Readiness Assessment” is a service funded routinely by IVRS up to 60 units (or 15 hours) currently at \$16.37/unit or \$65.48/hour.

**COMMENT 5:** Three of the respondent’s comments requested more hours for non-billable activities (such as travel time) in the rate development model for Individual

Supported Employment, Long Term Job Coaching, and job development. The comments point out an inequity that exists between rural and urban service providers regarding miles and travel time required to do the job in rural areas.

**DEPARTMENT RESPONSE 5:** The Department does not support this recommendation. The new rate structure allows billing of time "on behalf of" the client, and the model from which the rates were built does include the non-billable activities at the levels the Workgroup members agreed upon. Providers located in urban areas could argue that they have inequities not experienced by rural providers, such as a greater pool of job candidates competing against their job seekers, and greater time spent in metro traffic. The model used by the department results in a budget-neutral proposal as required by law.

**COMMENT 6:** The respondent requested additional time be factored into the rate model for non-billable job development, to allow more time for recruiting and educating Iowa employers regarding integrated community employment.

**DEPARTMENT RESPONSE 6:** The Department does not support this recommendation. The new rate structure allows billing of time "on behalf of" the client, and the model from which the rates were built includes the non-billable activities at the levels the Workgroup members agreed upon. The model used by the department results in a budget-neutral proposal as required by law.

**COMMENT 7:** The respondent commented about the lowest tier of long term job coaching (LTJC) which is labeled "Tier 1 = 1 contact/month" with a proposed reimbursement of \$67; the comment is that actual utilization could involve multiple contacts or up to 2 hours.

**DEPARTMENT RESPONSE 7:** The Department does not support this recommendation. The lowest reimbursement tier for long term job coaching (LTJC) provides a flexible range for providers to bill within; the rate pays providers for any/all contacts within the 1-contact up to 1.5 hours range. The tiers were arrived at based on a full year of utilization data and national recommendations, in addition to Workgroup recommendations. The Workgroup recommendation was for a rate for maintaining periodic contact, that some of them have been doing without reimbursement for years. The rate arrived at (LTJC hourly rate x1.5) was deemed appropriate.

**COMMENT 8:** The respondent commented that group employment should be more incentivized as a stepping stone between the workshop and individual supported employment, and suggested the rates need to incentivize it more heavily over facility based services. The suggestion was made to alter the Group Supported Employment tiers and rates to:

Tier 1, groups of 2-3 persons, \$14.80/hour x3 and pay as \$44.40 per group

Tier 2, groups of 4-6 persons, \$7.25/hour x6 and pay as \$43.50 per group

Tier 3, groups of 7-8 persons, \$5.31/hour x8 and pay as \$42.48 per group.

**DEPARTMENT RESPONSE 8:** The Department does not support this recommendation. Under **ARC 2114C**, the Department proposed to change Group Employment to a tiered rate structure due to comments received as follows:

Tier 1, groups of 2-4, \$11.24/hour/person (\$22.48-\$44.96/hour)

Tier 2, groups of 5-6, \$7.00/hour/person (\$35.00-\$42.00/hour)

Tier 3, groups of 7-8, \$5.00/hour/person (\$35.00-\$40.00/hour).

It appears that these tiers and rates are sufficient to set them apart from facility based services, and to incentivize the use of smaller groups without creating too great a variance between the different group sizes. In addition, services are authorized and reimbursed on an individual-member basis; the Department does not have a mechanism to pay “per group” for employment services.

The Council on Human Services adopted these amendments on March 9, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, an impact on jobs may be found. Jobs and advancement opportunities for direct support staff within provider agencies should improve based on enhanced reimbursement rates for supported employment services and the qualifications and professional development requirements reflected in these rules. This will be true throughout the state. Additionally, as community employment participation of people with disabilities increases, unmet workforce needs of Iowa businesses could be filled by the largely untapped resource of people with disabilities.

These amendments are intended to implement Iowa Code chapter 249A.

These amendments will become effective May 4, 2016.

The following amendments are adopted.

ITEM 1. Rescind subrule 77.25(8) and adopt the following **new** subrule in lieu thereof:

**77.25(8)** Prevocational habilitation.

a. The following providers may provide prevocational services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) An agency that is accredited by the Council on Quality and Leadership.

(3) An agency that is accredited by the International Center for Clubhouse Development.

(4) An agency that is certified by the department to provide prevocational services under:

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent degree. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment service training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.

(4) Prevocational direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 2. Rescind subrule 77.25(9) and adopt the following **new** subrule in lieu thereof:

**77.25(9) Supported employment habilitation.**

a. The following agencies may provide supported employment services:

(1) An agency that is certified by the department to provide supported employment services under:

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

(2) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community



employment service provider.

- (3) An agency that is accredited by the Council on Accreditation.
- (4) An agency that is accredited by the Joint Commission.
- (5) An agency that is accredited by the Council on Quality and Leadership.
- (6) An agency that is accredited by the International Center for Clubhouse

Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

- (1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.
- (2) Member vacation, sick leave and holiday compensation.
- (3) Procedures for payment schedules and pay scale.
- (4) Procedures for provision of workers' compensation insurance.
- (5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

- (1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an employment specialist or must earn this credential within 24 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 3. Rescind subrule 77.37(16) and adopt the following **new** subrule in lieu thereof:

**77.37(16)** Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider, or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation for similar services.

(3) An agency that is accredited by the Joint Commission for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.

d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold a nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an

employment specialist or must earn this credential within 24 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 4. Rescind subrule 77.37(26) and adopt the following **new** subrule in lieu thereof:

**77.37(26)** Prevocational service providers.

a. Providers of prevocational services must be accredited by one of the following:

(1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) The Council on Quality and Leadership accreditation in supports for people

with disabilities.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.

(4) Prevocational direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 5. Rescind subrule 77.39(15) and adopt the following **new** subrule in lieu thereof:

**77.39(15)** Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation for similar services.

(3) An agency that is accredited by the Joint Commission for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.

d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold a nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an employment specialist or must earn this credential within 24 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(4) Supported employment direct support staff shall complete 4 hours of

continuing education in employment services annually.

ITEM 6. Rescind subrule 77.39(22) and adopt the following **new** subrule in lieu thereof:

**77.39(22)** Prevocational services providers.

a. Providers of prevocational services must be accredited by one of the following:

(1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) The Council on Quality and Leadership accreditation in supports for people with disabilities.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing



direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of [the effective date of this subrule], complete at least 9.5 hours of employment services training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.

(4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 7. Adopt the following new definitions in subrule **78.27(1)**:

“Benefits education” means providing basic information to understand and access appropriate resources to pursue employment, and knowledge of work incentives and the Medicaid for employed persons with disabilities (MEPD) program. Benefits education may include gathering information needed to pursue work incentives and offering basic financial management information to members, families, guardians and legal representatives.

“Career exploration,” also referred to as “career planning,” means a person-centered, comprehensive employment planning and support service that provides assistance for waiver program participants to obtain, maintain or advance in competitive employment or self-employment. Career exploration is a focused, time-limited service engaging a participant in identifying a career direction and developing a plan for achieving competitive, integrated employment at or above the state’s minimum wage. The outcome of this service is documentation of the participant’s stated career objective and a career

plan used to guide individual employment support.

“Career plan” means a written plan documenting the member’s stated career objective and used to guide individual employment support services for achieving competitive, integrated employment at or above the state’s minimum wage.

“Customized employment” means an approach to supported employment which individualizes the employment relationship between employees and employers in ways that meet the needs of both. Customized employment is based on an individualized determination of the strengths, needs, and interests of the person with a disability and is also designed to meet the specific needs of the employer. Customized employment may include employment developed through job carving, self-employment or entrepreneurial initiatives, or other job development or restructuring strategies that result in job responsibilities being customized and individually negotiated to fit the needs of the individual with a disability. Customized employment assumes the provision of reasonable accommodations and supports necessary for the individual to perform the functions of a job that is individually negotiated and developed.

“Individual employment” means employment in the general workforce where the member interacts with the general public to the same degree as nondisabled persons in the same job, and for which the member is paid at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons without disabilities.

“Individual placement and support” means an evidence-based supported employment model that helps people with mental illness to seek and obtain employment.

“Integrated community employment” means work (including self-employment) for

which an individual with a disability is paid at or above minimum wage and not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by employees who are not disabled, where the individual interacts with other persons who are not disabled to the same extent as others who are in comparable positions, and which presents opportunities for advancement that are similar to those for employees who are not disabled. In the case of an individual who is self-employed, the business results in an income that is comparable to the income received by others who are not disabled and are self-employed in similar occupations.

“Supported employment” means the ongoing supports to participants who, because of their disabilities, need intensive ongoing support to obtain and maintain an individual job in competitive or customized employment, or self-employment, in an integrated work setting in the general workforce at or above the state’s minimum wage or at or above the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. The outcome of this service is sustained paid employment at or above the minimum wage in an integrated setting in the general workforce in a job that meets personal and career goals. Supported employment services can be provided through many different service models.

“Supported self-employment” includes services and supports that assist the participant in achieving self-employment through the operation of a business; however, Medicaid funds may not be used to defray the expenses associated with starting up or operating a business. Assistance for self-employment may include aid to the individual in identifying potential business opportunities; assistance in the development of a business plan, including potential sources of business financing and other assistance in developing

and launching a business; identification of the supports necessary for the individual to operate the business; and ongoing assistance, counseling and guidance once the business has been launched.

“Sustained employment” means an individual employment situation that the member maintains over time but not for less than 90 calendar days following the receipt of employment services and supports.

ITEM 8. Rescind subrule 78.27(9) and adopt the following **new** subrule in lieu thereof:

**78.27(9)** Prevocational service habilitation. “Prevocational services” means services that provide career exploration, learning and work experiences, including volunteer opportunities, where the member can develop non-job-task-specific strengths and skills that lead to paid employment in individual community settings.

a. Scope. Prevocational services are provided to persons who are expected to be able to join the general workforce with the assistance of supported employment. Prevocational services are intended to develop and teach general employability skills relevant to successful participation in individual employment. These skills include but are not limited to the ability to communicate effectively with supervisors, coworkers and customers; an understanding of generally accepted community workplace conduct and dress; the ability to follow directions; the ability to attend to tasks; workplace problem-solving skills and strategies; general workplace safety and mobility training; the ability to navigate local transportation options; financial literacy skills; and skills related to obtaining employment.

Prevocational services include career exploration activities to facilitate successful

transition to individual employment in the community. Participation in prevocational services is not a prerequisite for individual or small-group supported employment services.

(1) Career exploration. Career exploration activities are designed to develop an individual career plan and facilitate the member's experientially based informed choice regarding the goal of individual employment. Career Exploration may be provided in small groups of no more than four members to participate in career exploration activities that include business tours, attending industry education events, benefit information, financial literacy classes, and attending career fairs. Career exploration may be authorized for up to 34 hours, to be completed over 90 days in the member's local community or nearby communities and may include but is not limited to the following activities:

1. Meeting with the member and the member's family, guardian or legal representative to introduce them to supported employment and explore the member's employment goals and experiences,
2. Business tours,
3. Informational interviews,
4. Job shadows,
5. Benefits education and financial literacy,
6. Assistive technology assessment, and
7. Job exploration events.

(2) Expected outcome of service.

1. The expected outcome of prevocational services is individual employment in the general workforce, or self-employment, in a setting typically found in the community, where the member interacts with individuals without disabilities, other than those

providing services to the member or other individuals with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other persons; and for which the member is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

2. The expected outcome of the career exploration activity is a written career plan that will guide employment services which lead to community employment or self-employment for the member.

b. Setting. Prevocational services shall take place in community-based nonresidential settings.

c. Concurrent services. A member's individual service plan may include two or more types of nonresidential habilitation services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of time (e.g., the same hour).

d. Exclusions. Prevocational services payment shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving prevocational services.

(2) Services available to the individual that duplicate or replace education or

related services defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

(3) Compensation to members for participating in prevocational services.

(4) Support for members volunteering in for-profit organizations and businesses other than for-profit organizations, or businesses that have formal volunteer programs in place (e.g., hospitals, nursing homes), and support for members volunteering to benefit the service provider.

(5) The provision of vocational services delivered in facility-based settings where individuals are supervised for the primary purpose of producing goods or performing services or where services are aimed at teaching skills for specific types of jobs rather than general skills.

(6) A prevocational service plan with the goal or purpose of the service documented as maintaining or supporting the individual in continuing prevocational services or any employment situation similar to sheltered employment.

e. Limitations.

(1) Time limitation for members starting prevocational services. For members starting prevocational services after [the effective date of this subrule], participation in these services is limited to 24 calendar months. This time limit can be extended to continue beyond 24 months if one or more of the following conditions apply:

1. The member who is in prevocational services is also working in either individual or small-group community employment for at least the number of hours per week desired by the member, as identified in the member's current service plan; or

2. The member who is in prevocational services is also working in either

individual or small-group community employment for less than the number of hours per week the member desires, as identified in the member's current service plan, but the member has services documented in the member's current service plan, or through another identifiable funding source (e.g., Iowa vocational rehabilitation services (IVRS)), to increase the number of hours the member is working in either individual or small-group community employment; or

3. The member is actively engaged in seeking individual or small-group community employment or individual self-employment, and services for this are included in the member's current service plan or services funded through another identifiable funding source (e.g., IVRS) are documented in the member's service plan; or

4. The member has requested supported employment services from Medicaid and IVRS in the past 24 months, and the member's request has been denied or the member has been placed on a waiting list by both Medicaid and IVRS; or

5. The member has been receiving individual supported employment services (or comparable services available through IVRS) for at least 18 months without obtaining individual or small-group community employment or individual self-employment; or

6. The member is participating in career exploration activities as described in subparagraph 78.27(9)"a"(1).

(2) Time limitation for members enrolled in prevocational services. For members enrolled in prevocational services on or before [the effective date of this subrule], participation in these services is limited to 90 business days beyond the completion of the career exploration activity including the development of the career plan described in subparagraph 78.27(9)"a"(1). This time limit can be extended as stated in paragraphs



78.27(9)“e”(1)“1” through “6.” If the criteria in paragraphs 78.27(9)“e”(1)“1” through “6” do not apply, the member will not be reauthorized to continue prevocational services.

ITEM 9. Rescind subrule 78.27(10) and adopt the following **new** subrule in lieu thereof:

**78.27(10)** Supported employment services.

a. Individual supported employment. Individual supported employment involves supports provided to, or on behalf of, the member that enable the member to obtain and maintain individual employment. Services are provided to members who need support because of their disabilities.

(1) Scope. Individual supported employment services are services provided to, or on behalf of, the member that enable the member to obtain and maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.

(2) Expected outcome of service. The expected outcome of this service is sustained employment, or self-employment, paid at or above the minimum wage or the customary wage and level of benefits paid by an employer, in an integrated setting in the general workforce, in a job that meets personal and career goals. Successful transition to long-term job coaching, if needed, is also an expected outcome of this service. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time.

(3) Setting. Individual supported employment services shall take place in integrated work settings. For self-employment, the member’s home can be considered an integrated work setting. Employment in the service provider’s organization (not including

a sheltered workshop or similar type of work setting where members are paid for the production of goods or services) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where interactions are predominantly with coworkers or business associates who do not have disabilities or with the general public.

(4) Individual employment strategies include but are not limited to: customized employment, individual placement and support, and supported self-employment. Service activities are individualized and may include any combination of the following:

1. Benefits education.
2. Career exploration (e.g., tours, informational interviews, job shadows).
3. Employment assessment.
4. Assistive technology assessment.
5. Trial work experience.
6. Person-centered employment planning.
7. Development of visual/traditional résumés.
8. Job-seeking skills training and support.
9. Outreach to prospective employers on behalf of the member (e.g., job development; negotiation with prospective employers to customize, create or carve out a position for the member; employer needs analysis).
10. Job analysis (e.g., work site assessment or job accommodations evaluation).
11. Identifying and arranging transportation.
12. Career advancement services (e.g., assisting a member in making an upward career move or seeking promotion from an existing employer).

13. Reemployment services (if necessary due to job loss).
14. Financial literacy and asset development.
15. Other employment support services deemed necessary to enable the member to obtain employment.
16. Systematic instruction and support during initial on-the-job training including initial on-the-job training to stabilization.
17. Engagement of natural supports during initial period of employment.
18. Implementation of assistive technology solutions during initial period of employment.
19. Transportation of the member during service hours.
20. Initial on-the-job training to stabilization activity.

(5) Self-employment. Individual employment may also include support to establish a viable self-employment opportunity, including home-based self-employment. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time. In addition to the activities listed under subparagraph 78.27(10)“a”(4), assistance to establish self-employment may include:

1. Aid to the member in identifying potential business opportunities.
2. Assistance in the development of a business plan, including identifying potential sources of business financing and other assistance in developing and launching a business.
3. Identification of the long-term supports necessary for the individual to operate the business.

b. Long-term job coaching. Long-term job coaching is support provided to, or on behalf of, the member that enables the member to maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.

(1) Scope. Long-term job coaching services are provided to or on behalf of members who need support because of their disabilities and who are unlikely to maintain and advance in individual employment absent the provision of supports. Long-term job coaching services shall provide individualized and ongoing support contacts at intervals necessary to promote successful job retention and advancement.

(2) Expected outcome of service. The expected outcome of this service is sustained employment paid at or above the minimum wage in an integrated setting in the general workforce, in a job that meets the member's personal and career goals. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time.

(3) Setting. Long-term job coaching services shall take place in integrated work settings. For self-employment, the member's home can be considered an integrated work setting. Employment in the service provider's organization (not including a sheltered workshop or similar type of work setting) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where interactions are predominantly with coworkers or business associates who do not have disabilities, or with the general public, and if the position would exist within the provider's organization were the provider not being paid to provide the job coaching to the member.

(4) Service activities. Long-term job coaching services are designed to assist the

member with learning and retaining individual employment, resulting in workplace integration, and which allows for the reduction of long-term job coaching over time. Services are individualized, and service plans are adjusted as support needs change and may include any combination of the following activities with or on behalf of the member:

1. Job analysis.
2. Job training and systematic instruction.
3. Training and support for use of assistive technology/adaptive aids.
4. Engagement of natural supports.
5. Transportation coordination.
6. Job retention training and support.
7. Benefits education and ongoing support.
8. Supports for career advancement.
9. Financial literacy and asset development.
10. Employer consultation and support.
11. Negotiation with employer on behalf of the member (e.g., accommodations; employment conditions; access to natural supports; and wage and benefits).
12. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the job setting.
13. Transportation of the member during service hours.
14. Career exploration services leading to increased hours or career advancement.
- (5) Self-employment long-term job coaching. Self-employment long-term job coaching may include support to maintain a self-employment opportunity, including

home-based self-employment. In addition to the activities listed under subparagraph 78.27(10)“b”(4), assistance to maintain self-employment may include:

1. Ongoing identification of the supports necessary for the individual to operate the business;
2. Ongoing assistance, counseling and guidance to maintain and grow the business; and
3. Ongoing benefits education and support.

(6) The hours of support for long-term job coaching are based on the identified needs of the member as documented in the member’s comprehensive service plan.

c. Small-group supported employment. Small-group supported employment services are training and support activities provided in regular business or industry settings for groups of two to eight workers with disabilities. The outcome of this service is sustained paid employment experience, skill development, career exploration and planning leading to referral for services to obtain individual integrated employment or self-employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(1) Scope. Small-group supported employment services must be provided in a manner that promotes integration into the workplace and interaction between members and people without disabilities (e.g., customers, coworkers, natural supports) in those workplaces. Examples include but are not limited to mobile crews and other business-based workgroups employing small groups of workers with disabilities in employment in integrated business settings; and small-group activities focused on career

exploration and development of strengths and skills that contribute to successful participation in individual community employment.

(2) Expected outcome of service. Small-group supported employment services are expected to enable the member to make reasonable and continued progress toward individual employment. Participation in small-group supported employment services is not a prerequisite for individual supported employment services. The expected outcome of the service is sustained paid employment and skill development which leads to individual employment in the community.

(3) Setting. Small-group supported employment services shall take place in integrated, community-based nonresidential settings separate from the member's residence.

(4) Service activities. Small-group supported employment services may include any combination of the following activities:

1. Employment assessment.
2. Person-centered employment planning.
3. Job placement (limited to service necessary to facilitate hire into individual employment paid at minimum wage or higher for a member in small-group supported employment who receives an otherwise unsolicited offer of a job from a business where the member has been working in a mobile crew or enclave).
4. Job analysis.
5. On-the-job training and systematic instruction.
6. Job coaching.
7. Transportation planning and training.

8. Benefits education.

9. Career exploration services leading to career advancement outcomes.

10. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the individual or community setting.

11. Transportation of the member during service hours.

d. Service requirements for all supported employment services.

(1) Community transportation options (e.g., transportation provided by family, coworkers, carpools, volunteers, self or public transportation) shall be identified by the member's interdisciplinary team and utilized before the service provider provides the transportation to and from work for the member. If none of these options are available to a member, transportation between the member's place of residence and the employment or service location may be included as a component part of supported employment services.

(2) Personal care or personal assistance and protective oversight may be a component part of supported employment services, but may not comprise the entirety of the service.

(3) Activities performed on behalf of a member receiving long-term job coaching or individual or small-group supported employment shall not comprise the entirety of the service.

(4) Concurrent services. A member's individual service plan may include two or more types of nonresidential services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of



time (e.g., the same hour).

(5) Integration requirements. In the performance of job duties, the member shall have regular contact with other employees or members of the general public who do not have disabilities, unless the absence of regular contact with other employees or the general public is typical for the job as performed by persons without disabilities.

(6) Compensation. Members receiving these services are compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. For supported self-employment, the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time. For small-group supported employment, if the member is not compensated at or above minimum wage, the compensation to the member shall be in accordance with all applicable state and federal labor laws and regulations.

e. Limitations. Supported employment services are limited as follows:

(1) Total monthly costs of supported employment may not exceed the monthly cap on the cost of waiver services set for the individual waiver program.

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed \$3,029.00 per month.

(3) Individual supported employment is limited to 240 units per calendar year.

(4) Long-term job coaching is limited in accordance with 441—subrule 79.1(2).

(5) Small-group supported employment is limited to 160 units per week.

f. Exclusions. Supported employment services payments shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that the service is not available to the individual under these programs shall be maintained in the service plan of each member receiving individual supported employment or long-term job coaching services.

(2) Incentive payments, not including payments for coworker supports, made to an employer to encourage or subsidize the employer's participation in a supported employment program.

(3) Subsidies or payments that are passed through to users of supported employment programs.

(4) Training that is not directly related to a member's supported employment program.

(5) Services involved in placing and stabilizing members in day activity programs, work activity programs, sheltered workshop programs or other similar types of vocational or prevocational services furnished in specialized facilities that are not a part of the general workplace.

(6) Supports for placement and stabilization in volunteer positions or unpaid internships. Such volunteer learning and unpaid training activities that prepare a person for entry into the general workforce are addressed through prevocational services and career exploration activities.

(7) Tuition for education or vocational training.

(8) Individual advocacy that is not related to integrated individual employment participation or is not member-specific.

(9) Medicaid funds may not be used to defray the expenses associated with starting up or operating a business.

ITEM 10. Rescind subrule 78.41(7) and adopt the following **new** subrule in lieu thereof:

**78.41(7)** Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 11. Rescind subrule 78.41(13) and adopt the following **new** subrule in lieu thereof:

**78.41(13)** Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 12. Rescind subrule 78.43(4) and adopt the following **new** subrule in lieu thereof:

**78.43(4)** Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 13. Rescind subrule 78.43(11) and adopt the following **new** subrule in lieu thereof:

**78.43(11)** Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 14. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by rescinding paragraphs “19” and “23” and adopting the following **new** paragraphs in lieu thereof:

Provider category

Basis of  
reimbursement

Upper limit

Provider category	Basis of reimbursement	Upper limit
19. Supported employment:		
Individual supported employment	Fee schedule	Fee schedule in effect [the effective date of this amendment]. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
Long-term job coaching	Fee schedule	Fee schedule in effect [the effective date of this amendment]. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
Small-group supported employment (2 to 8 individuals)	Fee schedule	Fee schedule in effect [the effective date of this amendment]. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
23. Prevocational services, including career exploration	Fee schedule	Fee schedule in effect [the effective date of this amendment].

ITEM 15. Amend subrule **79.1(2)**, provider category “Home- and community-based habilitation services,” as follows:

Provider category	Basis of reimbursement	Upper limit
Home- and community-based habilitation services:		
1. to 3. No change.		
4. Prevocational habilitation <u>Career exploration</u>	<del>See</del> <del>79.1(24)“d”</del> <u>Fee schedule</u>	<del>Effective- 7/1/13: \$13.47 per hour or \$48.22 per day. Fee schedule in effect [the effective date of this amendment].</del>
5. Supported employment:		
<del>Activities to obtain a job:</del>		
<del>Job development</del>	<del>See</del> <del>79.1(24)“d”</del>	<del>\$909 per unit (job placement). Maximum of two units per 12 months.</del>
<u>Individual supported employment</u>	<u>Fee schedule</u>	<u>Fee schedule in effect [the effective date of this amendment]. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
<del>Employer development</del>	<del>See</del> <del>79.1(24)“d”</del>	<del>\$909 per unit (job placement). Maximum of two units per 12 months</del>

Provider category	Basis of reimbursement	Upper limit
<u>Long-term job coaching</u>	<u>Fee schedule</u>	<u>Fee schedule in effect [the effective date of this amendment]. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
<del>Enhanced job-search</del>	<del>See 79.1(24)“d”</del>	<del>Effective- 7/1/13: Maximum of \$8.75 per 15 minute unit and 104 units per 12 months.</del>
<u>Small-group supported employment (2 to 8 individuals)</u>	<u>Fee schedule</u>	<u>Fee schedule in effect [the effective date of this amendment]. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
<del>Supports to maintain employment</del>	<del>See 79.1(24)“d”</del>	<del>Effective- 7/1/13: \$1.55 per 15 minute unit for services in an enclave setting; \$4.95 per 15 minute unit for personal care; and \$8.75 per 15 minute unit for all other services. Total not to exceed \$2,883.71 per month. Maximum of 160 units per week.</del>

ITEM 16. Amend subrule 79.1(15), introductory paragraph, as follows:

**79.1(15)** HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; ~~HCBS supported employment enhanced job search activities;~~ and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency.

ITEM 17. Rescind subparagraphs **79.1(24)“a”(4)** and **(5)**.

ITEM 18. Renumber subparagraph **79.1(24)“a”(6)** as **79.1(24)“a”(4)**.

ITEM 19. Amend **441—Chapter 83**, preamble, as follows:

Medicaid waiver services are services provided to maintain persons in their own homes or communities who would otherwise require care in a medical institutions institution, including support for persons to seek and maintain employment in the community. Provision of these services must be cost-effective. Services are limited to certain targeted client groups for whom a federal waiver has been requested and approved. Services provided through the waivers are not available to other Medicaid recipients as the services are beyond the scope of the Medicaid state plan.

ITEM 20. Amend subrule 83.61(1) as follows:

**83.61(1)** Eligibility criteria. All of the following criteria must be met. The person must:

a. to f. No change.

g. For individual supported employment and long-term job coaching services:

(1) Be at least 16 years of age.

~~(2) Rescinded IAB 7/1/98, effective 7/1/98.~~

~~(3) (2) Not be eligible for supported employment service funding under Public~~

~~Law 94-142 or for the Rehabilitation Act of 1973.~~ The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

~~(4)~~ (3) Not reside in a medical institution.

(4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.

h. For small-group supported employment services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.

(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.

(5) Not reside in a medical institution.



- i. For prevocational services:
- (1) Be at least 16 years of age.
- (2) The services must not be available to the member through one of the following:
1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
- (3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.
- (4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.
- (5) Not reside in a medical institution.
- ~~h-~~ j. Choose HCBS intellectual disability waiver services rather than ICF/ID services.
- ~~i-~~ k. To be eligible for interim medical monitoring and treatment services the consumer must be:
- (1) Under the age of 21;
- (2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses

interim medical monitoring and treatment.);

(3) Residing in the consumer's family home or foster family home; and

(4) In need of interim medical monitoring and treatment as ordered by a physician.

~~j-~~ l. Be assigned an HCBS intellectual disability payment slot pursuant to subrule 83.61(4).

~~k-~~ m. For residential-based supported community living services, meet all of the following additional criteria:

(1) Be less than 18 years of age.

(2) Be preapproved as appropriate for residential-based supported community living services by the bureau of long-term care. Requests for approval shall be submitted in writing to the DHS Bureau of Long-Term Care, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, and shall include the following:

1. Social history;
2. Case history that includes previous placements and service programs;
3. Medical history that includes major illnesses and current medications;
4. Current psychological evaluations and consultations;
5. Summary of all reasonable and appropriate service alternatives that have been tried or considered;
6. Any current court orders in effect regarding the child;
7. Any legal history;
8. Whether the child is at risk of out-of-home placement or the proposed placement would be less restrictive than the child's current placement for services;
9. Whether the proposed placement would be safe for the child and for other

children living in that setting; and

10. Whether the interdisciplinary team is in agreement with the proposed placement.

(3) Either:

1. Be residing in an ICF/ID;

2. Be at risk of ICF/ID placement, as documented by an interdisciplinary team assessment pursuant to paragraph 83.61(2)“a”; or

3. Be a child whose long-term placement outside the home is necessary because continued stay in the home would be a detriment to the health and welfare of the child or the family, and all service options to keep the child in the home have been reviewed by an interdisciplinary team, as documented in the service file.

~~l. n.~~ For day habilitation, be 16 years of age or older.

~~m. o.~~ For the consumer choices option as set forth in 441—subrule 78.41(5), not be living in a residential care facility.

ITEM 21. Adopt the following **new** paragraphs **83.82(1)“n”** to **“p”**:

n. For individual supported employment and long-term job coaching services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Not reside in a medical institution.

(4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in this outcome.

o. For small-group supported employment services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.

(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.

(5) Not reside in a medical institution.

p. For prevocational services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in community employment.

(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive prevocational services was made.



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist LeAnn Moskowitz	Telephone Number 515-256-4653	Email Address lmoskow@dhs.state.ia.us
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1. Give a brief summary of the rule changes:

We are amending the Notice of Intended Action as published as the IME is in the process of seeking CMS approval for the 1915(b) Waiver, 1915 (i) HCBS Habilitation State Plan Amendment (SPA) and 1915(c) HCBS Waiver Amendments which will shift program administration to managed care which resulted in delaying the desired implementation date of these proposed rules. The department anticipates this approval prior to March 1, 2016. Once that approval has been received, the IME will request additional amendments to the ID and BI Waivers and Habilitation SPA implementing the prevocational and employment service changes.

These rules implement the changes in employment service definitions as provided by the Centers for Medicaid Services (CMS) in the September 16, 2011 Informational Bulletin and their 2015 Technical Guide.

This rule changes the provider qualifications, service scope, duration, limitation and reimbursement methodologies for the Home and Community Based Services (HCBS) Prevocational and Supported Employment services within Habilitation program and the Intellectual Disability (ID) and Brain Injury (BI) waivers.

These rules were previously noticed on August 18, 2015. Public Comments were taken August 18, 2015 through September 8, 2016. The Department received 190 comments from 23 respondents on the proposed rules. The comments and corresponding responses from the Department are divided into four topic areas as follows: General Comments, Provider Qualifications, Service Definitions, and Reimbursement Methodologies and Rates. The comments resulted in 13 amendments to the proposed rules as published August 18, 2015.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

- CMS guidance updating the 1915 (c) Waiver Instructions and the Technical Guide regarding employment and employment related services issued 9-16-2011, and the January 2015, CMS HCBS Waiver Technical Guidance.
- Americans with Disabilities Act and the Olmsted Supreme Court decision regarding the provision of services in overly restrictive environments.
- CMS HCBS settings and person centered service planning rules issued March 17, 2014.

3. What is the reason for the Department requesting these changes?

To comply with the letter and spirit of the above and to incentivize employment in the community as the first and preferred priority for HCBS members receiving employment services. These changes also create a wider array of employment service options for Habilitation, ID and BI Waiver members.

4. What will be the effect of this rule making (who, what, when, how)?

Iowa will be in compliance with the 9-16-2011 CMS Waiver Instructions and Technical Guide. Habilitation and ID and BI waiver members will have access to a higher quality and a wider array of employment services and supports focusing on community based employment. Direct employment service staff and providers will be equipped through required training and certification to provide high quality services. Medicaid funding for employment services and supports will rebalance from facility based to community based services.

5. Is the change mandated by State or Federal Law?

- CMS guidance updating the 1915 (c) Waiver Instructions and the Technical Guide regarding employment and employment related services issued 9-16-2011
- Americans with Disabilities Act and the Olmsted Supreme Court decision regarding the provision of services in overly restrictive environments.
- CMS HCBS settings rules issued March 17, 2014

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

Habilitation and ID and BI waiver members receiving or desirous of receiving, prevocational or supported employment services will be impacted. In accordance with CMS direction, members receiving prevocational services will have a limited amount time that they may continue to participate in prevocational services. By participating in the newly defined career exploration activity as part of prevocational services, members will have the opportunity to make an informed choice about work and community based employment. Conversely, some members and families may see these changes as negative due to limiting the amount of time a member may spend in prevocational services.

Provider organization providing these services will also be impacted. Providers will have consistent training and development expectations for staff delivering services and their reimbursement will be inclusive of the cost of staff training and development. Providers will have more flexibility in the delivery of long term job coaching. Tier based reimbursement will enable providers to build their job coach pool and sustain job coaching services over the long term while enabling the fading of supports as appropriate for members. Providers whose business models rely heavily on prevocational services revenue may be negatively impacted in the short term by the decline in the prevocational reimbursement rate. However, those same providers will experience an increase in reimbursement and revenues when they offer members career exploration activity as part of prevocational services, and expand their supported employment services.

7. What are the potential benefits of this rule?

Members will have greater opportunities for community based employment as they make informed choices by participating in the career exploration activity. Members will

experience time limited prevocational services and transition to supported employment services or other meaningful day activity when the member makes the informed choice to not seek employment, rather than remain in prevocational service indefinitely.

Providers will have consistent training and development expectations for staff delivering services and their reimbursement will be inclusive of the cost of staff training and development. Providers will have more flexibility in the delivery of long term job coaching. Tier based reimbursement will enable providers to build their job coach pool and sustain job coaching services over the long term while enabling the fading of supports as appropriate for members. Providers will experience an increase in reimbursement and revenues when they offer members career exploration activity as part of prevocational services, and expand their supported employment services.

As the reimbursement rate for prevocational service declines, the overall cost to the state of prevocational and employment services goes down. The fiscal impact model shows a net savings to the state in year two. Over the long term, employment in community settings provides greater financial self-sufficiency for members costs the taxpayers less and has a positive impact on Medicaid claims and the economy as a whole.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

None, this is not a regulated service.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

Iowa Vocational Rehabilitation Services (IVRS) and the Department of Education (DOE) are potentially impacted by the rule changes. The department has worked closely with the IVRS in the development of the service definitions, staff and provider qualifications and reimbursement rates. Iowa Department of Education is involved with improving employment outcomes for transition aged youth and will be positively impacted by the improved array of employment supports and services.

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

The department could continue to reimburse for services as defined in rule today. However, the current service definitions do not comport with federal requirements or guidelines. Medicaid is required to comply with the CMS guidance for the employment services within the HCBS Habilitation program and ID and BI waivers. These service definitions were already adopted in the State Plan Amendment for Habilitation and in the HCBS Renewal Applications for the ID and BI Waivers during 2014. These proposed changes are comprehensive, incentivize integrated community employment over facility based services, and provide for consistency across programs and services which is not reflected in rule today.

11. Does this rule contain a waiver provision? If not, why?

No. The department has established procedures for requesting an exception to policy and anyone may request an exception under those guidelines.

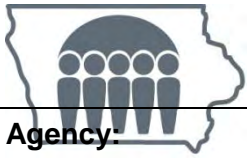
12. What are the likely areas of public comment?



- Reductions in the reimbursement rate for prevocational services
- Time limits on prevocational services for both existing and new members
- The need for training, technical assistance and other supports for provider agencies to retool their services delivery systems and capabilities.

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

Jobs and advancement opportunities for direct support staff within provider agencies should improve based on enhanced reimbursement rates for supported employment services and the qualifications and professional development requirements reflected in these rules. This will be true throughout the state. Additionally, as community employment participation of people with disabilities increases, unmet workforce needs of Iowa businesses could be filled by the largely untapped resource of people with disabilities.



## Administrative Rule Fiscal Impact Statement

Date 7/21/2015

**Agency:** Human Services

**IAC citation:** 441 IAC

**Agency contact:** LeAnn Moskowitz 256-4653

### Summary of the rule:

This is a revision of the Supported Employment and Prevocational services rules within Habilitation services and the ID and BI waivers. The revisions include the service definitions, the provider and staff qualifications, and the rates.

*Fill in this box if the impact meets these criteria:*

☐ No fiscal impact to the state.

☒ Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal impact cannot be determined.

### Brief explanation:

DHS developed a 7-year implementation model starting in SFY15. The base year for members served and cost is SFY13 with a 3% estimated growth for each of SFY14 and SFY15.

The implementation model demonstrates how a person could “flow through” the redesigned services. The starting point is the SFY13 members receiving prevocational services and the respective ages of those members. The goal was to show the fiscal impact of moving those members through the career exploration activity within prevocational services and individual employment, into long term job coaching, while accounting for those currently receiving services. The proposal includes prevocational services as a “wrap-around” to other services throughout the seven years, to “keep a person whole” compared to current weekly hours of service regardless of their hours of employment.

Resource sharing between DHS and IVRS is modeled using the age ranges, and moving younger members from prevocational services sooner. Younger members flow through IVRS Discovery and Job Development, while older members flow through Medicaid services. Members already receiving job development or job coaching were moved into the corresponding redefined service. Group services were kept static because the overall goal is individual employment and there is not a reliable way to predict movement into or out of group employment.

The expanded employment services and rates will increase Medicaid costs, but this will be offset by lower prevocational rates and a shift in some services to IVRS. The implementation model predicts budget neutrality in Year 1 (SFY16) and budget savings in future fiscal years. A summary of the SFY16 and SFY17 calculations are outlined below.

	BASE YEAR	SFY16	SFY17
Career Exploration	N/A	\$167,093	\$244,434
Individual JD	\$453,964	\$57,558	\$111,814
LTJC	\$6,172,631	\$10,360,310	\$9,487,934
Group	\$2,562,083	\$1,916,578	\$1,916,578
PreVoc	\$18,478,821	\$14,438,572	\$13,401,084
Day Hab Uptake	N/A	\$68,466	\$407,945
<i>Total</i>	<i>\$27,667,499</i>	<i>\$27,008,577</i>	<i>\$25,569,788</i>
Gen Fund	\$12,134,965	\$12,134,954	\$11,358,100
Over (Under) GF from Base Yr		(\$11)	(\$776,865)

While the department expects to achieve cost neutrality, it will not incorporate savings into the Medicaid budget until actual experience can be analyzed. Therefore, an impact of less than \$100,000 annually (near cost neutrality) is currently assumed.

*Fill in the form below if the impact does not fit the criteria above:*

\_\_\_\_\_ Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

***Estimated Impact to the State by Fiscal Year***

	Year 1 (SFY16)	Year 2 (SFY17)
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	< \$100,000	< \$100,000

\_\_\_\_\_ This rule is required by state law or federal mandate.

*Please identify the state or federal law:*

\_\_\_\_\_ Funding has been provided for the rule change.

*Please identify the amount provided and the funding source:*

\_\_\_\_\_ Funding has not been provided for the rule.

*Please explain how the agency will pay for the rule change:*

***Fiscal impact to persons affected by the rule:***

Habilitation and ID and BI waiver members receiving or desirous of receiving, prevocational or supported employment services will be impacted. In accordance with CMS direction, members receiving prevocational services will have a limited amount of time that they may continue to participate in prevocational services. By participating in the newly defined career exploration activity as part of prevocational services, members will have the opportunity to make an informed choice about work and community based employment. Conversely, some members and families may see these changes as negative due to limiting the amount of time a member may spend in prevocational services.

Provider organizations providing these services will also be impacted. Providers will have consistent training and development expectations for staff delivering services and their reimbursement will be inclusive of the cost of staff training and development. Providers will have more flexibility in the delivery of long term job coaching. Tier based reimbursement will enable providers to build their job coach pool and sustain job coaching services over the long term while enabling the fading of supports as appropriate for members. Providers whose business models rely heavily on prevocational services revenue will be negatively impacted in the short term by the decline in the prevocational reimbursement rate. However, those same providers will experience an increase in reimbursement and revenues when they offer members career exploration activity as part of prevocational services, and expand their supported employment services.

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***

There will be no impact to local government agencies unless they are also HCBS waiver providers that are providing these services.

Agency representative preparing estimate: Joe Havig

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